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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,151	08/28/2006	Michel Ramus	930108-2020	9822
7590 Ronald R Santucci Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151			EXAMINER GIRMA, FEKADESEELASS	
			ART UNIT 2612	PAPER NUMBER
			MAIL DATE 04/13/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,151

Applicant(s)

RAMUS, MICHEL

Examiner

Fekadeselassie Girma

Art Unit

2612

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. The amendment filed on 23 March 2009 has amended claims 1- 8, and no claim has been added or cancelled. Therefore, claims 1-8 are currently pending in the application.

Objection to Drawings

2. The drawings are objected to under 37 CFR 1.83(o) because Fig. 1a, Fig. 1b, Fig. 2, & Fig. 3 fail to show details in the drawings as described in the specification. Wherein possible, the drawings, in the figures above, need to be labeled with text description besides the number identification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.12 l(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either '~Replacement Sheet' or '~New Sheet' pursuant to 37 CFR 1.12 l(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the

drawings will not be held in abeyance.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "~Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 provides for the use of intended for the control of elements ensuring the security and/or comfort of the building, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

6. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the

invention.

Claim 8 recites the limitation "the command transmitter" in Line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dykema (US 5442340) in view of Guthrie (7116242).

As to claim 1, Dykema discloses in trainable RF transmitter including attenuation control having the claimed communication between a command transmitter (40) and a bi-directional command transmitter-receiver (55) read on Col. 2, Lines 48-54; the command transmitter communicates to the command transmitter-receiver read on Col. 5, Lines 1-3; and the command transmitter-receiver communicates to other elements by way of frequency-modulated RF signals read on Col. 2, Lines 48-54; read on Col. 2, Lines 62-67 & Col. 4, Lines 39-50 (note: Voltage controlled oscillator output signal only when the switch 70 closes and the Voltage controlled oscillator disabled when the switch is closed and interruption is successive); an electric signals for operation mode by frequency modulation read on Col. 2, Lines 48-54 & Claim 1. Dykema does not explicitly disclose a command transmitter-receiver sends information to the command transmitter in a programming mode by way of amplitude-modulated RF signals.

However, Guthrie, in the same field of endeavor, teaches a command transmitter-receiver sends information to the command transmitter in a programming mode by way of amplitude-modulated RF signals read on Col. 3, Lines 8-30. The artisan recognizes the obviousness of the RF trainable transmitters demodulate the signal using a reference signal having a frequency related to the carrier frequency of the received RF signal. The demodulated data signal is sampled at a relatively sampling interval to produce a digitized data stream representing the control signal. Transmitter 100 that can transmit multiple device codes using multiple transmission formats or protocols, at multiple transmission frequencies. One or more receivers 105 are adapted to receive the signals 102 from the transmitter 100, interpret the signals and produce an output signal to drive a corresponding utility device 110. The transmission format can be any of the formats known in the art (e.g. amplitude modulation, frequency modulation, a pulse-code modulation pattern, or frequency shift keying, pulse amplitude modulation, pulse width modulation, or a rolling code modulation pattern. A predetermined transmission frequency and a unique data transmission format, where the timing parameters and modulation characteristics related to encoded data are unique to the design of the particular transmitter.

Therefore it would have been obvious to one ordinary skill in the art at the time of invention to incorporate the Programmable transmitter and receiver including digital radio frequency memory of Guthrie into Dykema in order to provide a programmable transceiver that has reduced circuit board area and/or cost when compared to conventional approaches, programs more quickly, is more resistant to breakage when dropped, and is more stable over changes in temperature and over time than conventional approaches.

As to claim 2, Dykema further discloses the command transmitter is comprises a series of

transmissions and of interruptions read on Col. 4, Lines 40-50.

As to claim 3, Dykema further discloses the sent information comprises an identification code met by code (Col. 2, Lines 59-62).

As to claim 4, Dykema in view of Guthrie discloses all claimed limitations. Dykema further discloses an antenna coupled to means for reception (80, 72, 81, 82); a means for transmission is coupled to the antenna and means for activating and disabling read (73, 71, 90, 72).

As to claim 5, Dykema further discloses a means for transmission comprises an amplifying circuit read on Col. 4, Lines 15-23;

As to claim 6, Dykema further discloses a logic processing unit and a control circuit met by microcontroller (57, 62, 66).

As to claim 7, Dykema further discloses means of control of the power supply of the amplifying 70, Col. 4, Lines 40-50, & Col. 4, Lines 15- 23.

As to claim 8, the claim is interpreted and rejected as claim 1 and 4.

Response to Arguments

9. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection. Applicant amendment necessitated the new ground of rejection.

Citation of Other Prior Arts

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tsui, Transmitter for operating multiple devices (US 7254182) and Rodriguez, disclosed in barrier operator with secure/unsecure transmitter and method of use (US 7248144).

Conclusion.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fekadeselassie Girma whose telephone number is (571) 270-5886. The examiner can normally be reached on Monday thru Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FG/

/Daniel Wu/
Supervisory Patent Examiner, Art Unit 2612